

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

Writ Petition No. 5798 of 2006

In the matter of:

An application under article 102 of the
Constitution of the People's Republic of
Bangladesh.

AND

In the matter of:

United Edible Oils Limited

... Petitioner

-Versus-

Commissioner, Customs Bond Commissionerate,
Dhaka and others

... Respondents

Ramzan Ali Sikder, Advocate

... For the petitioner

Mr. Nawroz Md. Rasel Chowdhury, DAG with
Ms. Tahmina Polly and
Mr. Prince-Al-Masud, AAGs

... For the respondents

Heard on: 20.03.2024

and

Judgment on: 21.03.2024

Present:

Justice Md. Shahinur Islam

and

Justice Sardar Md. Rashed Jahangir

Sardar Md. Rashed Jahangir, J:

The Rule Nisi was issued on an application under article 102 of the
Constitution of the People's Republic of Bangladesh calling upon the
respondents to show cause as to why the action of the respondent No. 6 in
not entertaining the petitioner's appeal/application filed under section 193

of the Customs Act, 1969 and the assessment of customs duties, taxes and other charges on the basis of the exchange rate of Bangladesh currency prevailing on the date of submission of the ex-bond bill of entry Nos. C-345 and C-346 and C-347 all dated 06.06.2006 (Annexures- 'F', 'F-1' and 'F-2') instead of exchange rate prevailing on the date of submission of the into bond entry No. C-59043 dated 20.02.2006 (Annexure-'E') should not be declared to have been issued without lawful authority and is of no legal effect and as to why the respondents should not be directed to assess and release the petitioner's consignment covered under Letter of Credit No. DC DAK 507115 dated 21.12.2005 (Annexure-'A') corresponding to in-bond bill of entry No. C-59043 dated 20.02.2006 on the basis of the duties, taxes and other charges assessed on the basis of exchange rate prevailing on the date of submission of the in-bond bill of entry and/or pass such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule Nisi, the respondents were directed to release the imported goods of the petitioner covered under

Letter of Credit No. DC DAK 507115 dated 21.12.2005 (Annexure-‘A’) on payment of the duties, taxes and other charges on the basis of the assessment as contained in the in-bond bill of entry Registration No. C-59043 dated 20.02.2006 (Annexure-‘E’) and on furnishing bank guarantee(s) for the amount of difference between the in-bond bill of entry and ex-bond bills of entry of the customs duties, taxes and other charges assessed on the basis of the exchange rate prevalent on the date of submission of the in-bond bill of entry and ex-bond bills of entry within 3(three) days from the date of receipt of the order, provided that the goods would be in accordance with the petitioner’s declaration.

For proper disposal of this Rule, we see no necessity to discuss the detail facts of this case, save and except the facts that the petitioner in course of its business opened Letter of Credit being No. DC DAK 507115 dated 21.12.2005 through the Hong Kong and Shanghai Banking Corporation Limited, Dhaka for importation of Crude Degummed Soyabean Oil (CDSO) under the bonded warehouse facility. After arrival of the goods at Chattogram Port the petitioner submitted in-bond bill of

entry No. C-59043 dated 20.02.2006. In the said in-bond bill of entry, it was stated that a total of 2974.986 metric tons of CDSO landed and the total assessable value of the said consignment was determined/fixd at Tk.9,87,87,795.24 by the Customs Authorities considering the exchange rate of per 1US\$ at Tk.66.4643. As such, the assessable value per metric ton was Tk.33,206.13. Thereafter, for the purpose of utilization of the said bonded warehoused goods (CDSO), petitioner presented 3(three) ex-bond bills of entry for release of in-bond warehoused goods; the customs authority re-assessed and re-fixd the total assessable value at Tk.10,28,80,711.16 taking into consideration the prevalent exchange rate per 1 US\$ at Tk.69.80 and therefore, the assessable value per metric ton would stand on Tk.34,582.12 and the concerned customs authority made their re-assessment taking into consideration the aforesaid assessable value and exchange rate of US\$.

Being aggrieved by the order of re-assessment covered by ex-bond bills of entry Nos. C-345, C-346 and C-347 all dated 06.06.2006 of the office of Bond Commissionerate, Dhaka, the petitioner on 21.06.2006

filed an appeal before the respondent No. 6 under section 193 of the Customs Act, 1969, soon after filing the appeal the petitioner filed an application for an interim direction, seeking release of goods under the style and manner as prayed for. Since the respondent No. 6 failed to pass any interim order in the said appeal, the petitioner rushed to this Court by filing the writ petition and obtained the Rule and interim order of direction as aforesaid.

Since, the goods have been released provisionally accepting bank guarantee(s) for the differential amount of assessments made on the basis of in-bond bill of entry and ex-bond bills of entry and an appeal has been filed challenging the re-assessment on the basis of ex-bond bills of entry and the same is pending till today.

So, we are of the view that justice would be best served, if the respondent No. 6 is directed to dispose of the appeal (Annexure-‘H’ to the writ petition) within a shortest possible time.

Accordingly, the Rule is disposed of.

The respondent No. 6 is hereby directed to hear and dispose of the petitioner's appeal filed under section 193 of the Customs Act, 1969 (Annexure-'H') as expeditiously as possible, preferably within 3(three) months from the date of receipt of this order and the furnished bank guarantee(s) shall follow the result of the appeal, meaning thereby, the respondents shall not encash the bank guarantee(s) till disposal of the said appeal.

No order as to cost.

Communicate the judgment and order at once.

Md. Shahinur Islam, J:

I agree.